

Notice of Allowability

Application No.

10/010,763

Examiner

Susan Ungar

Applicant(s)

FIDLER ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to March 6, 2006.
2. ☐ The allowed claim(s) is/are 3-14 and 38-41, now renumbered 2-13, 1 and 14-16, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

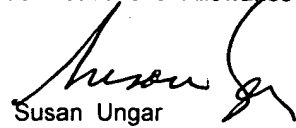
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Susan Ungar
Primary Examiner
Art Unit: 1642

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

2. The Amendment filed March 9, 2006 in response to the Office Action of December 29, 2005 is acknowledged and has been entered. Previously pending claims 1-2, 15-37 and 42-43 were canceled and claim 38 was amended. Claims 3-14 and 38-41 are currently under prosecution.

3. The application has been amended as follows:

In the specification:

On page 1, after the term "2000", the phrase --now abandoned-- was inserted.

In the claims:

Claims 4-7 were amended as follows, after the term "claim" the number "1" was deleted and the number --38-- was substituted.

Claim 8 was amended as follows after the term "comprises:" section (a) in its entirety was deleted.

Claim 8 was amended as follows, in section (b), the term “sample” was deleted and the term --samples-- was substituted.

Claim 8 was amended as follows, the term “(b)” was deleted and the term --(a)-- was substituted.

Claim 8 was amended as follows, the term “(c)” was deleted and the term --(b)-- was substituted.

Claim 10 was amended as follows, after the phrase “method of claim 8” the phrase “wherein a second antibody that comprises a detectable label is contacted prior to detection” was deleted and the phrase --wherein the bound antibody is detected with a second antibody that comprises a detectable label-- was substituted.

Claim 14 was amended as follows, after the term “bone marrow” the term “brain” was deleted.

Claim 38 was amended as follows, in section i) after “said cancer” the phrase “is growth related and” was deleted.

Claim 38 was amended as follows, in Section i) after the term “overexpresses” the term “an” was deleted”

4. As previously set forth in the telephone interview of May 19, 2006, Applicants response filed March 9, 2006 placed the application in condition for

allowance based on the record at that time. The Examiners Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicants attention for the first time in the telephone interview of May 19, 2006 and further in the telephone interview of May 25. Accordingly, no further extension of time is required to make the Examiners Amendment which places the Application fully in condition for allowance.

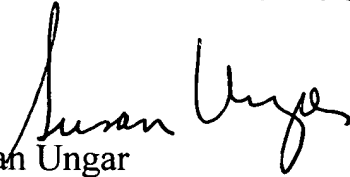
5. Authorization for this Examiner's Amendment was given in a telephone interview with David Parker on May 19, 2006 and in a telephone interview on May 25, 2006.

6. It is noted that a review of the literature has made evident that antibody C25 is commercially available.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is 571-272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.



Susan Ungar
Primary Patent Examiner
May 25, 2006